

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK

3 -----
4 **DAVID P. JACKSON,**

5 Plaintiff,

6 -vs-

14-CV-752-WMS

7 **ANTHONY BARTZ**
8 **ERIK KEICHER**
9 **JAMES KACZMAREK,**

10 Defendant.
11 -----
12 Examination before trial of **DAVID P.**

13 **JACKSON**, held before Heather Marcolini, Notary
14 Public, at Main Place Tower, 350 Main Street,
15 Buffalo, New York, on July 15, 2015 starting
16 at 9:54 AM and ending at 11:13 AM, pursuant to
17 notice.

18 APPEARANCES: **STATE OF NEW YORK**
19 **OFFICE OF THE ATTORNEY GENERAL**
20 **ERIC T. SCHNEIDERMAN,**
21 BY: **CHRISTOPHER L. BOYD, ESQ.,**
22 **ASSISTANT ATTORNEY GENERAL,**
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E X H I B I T S

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12 (Exhibits retained by Mr. Boyd)
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—MR. JACKSON - BY MR. BOYD - 07/15/15—

1 **D A V I D P. J A C K S O N ,**

2 662 Norththumberland Avenue, Buffalo, New York
3 14215, having been first duly sworn, was
4 examined and testified as follows:

5

6 EXAMINATION BY MR. BOYD:

7 Q. Good morning, Mr. Jackson.

8 A. Good morning.

9 Q. My name is Christopher Boyd. I'm an Assistant
10 Attorney General and I represent the
11 defendants in this action. Is there any
12 reason that you can't go forward with today's
13 deposition?

14 A. Not at all.

15 Q. Have you consumed any drugs or alcohol in the
16 last 24 hours?

17 A. No.

18 Q. Do you have any hearing problems?

19 A. No.

20 Q. Okay. I'm going to ask you a series of
21 questions. I'll ask that you please give me a
22 verbal response to each question rather than
23 gesturing or nodding, is that fair?

24 A. That's fair.

25 Q. If you respond to a question, I'm going to

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1 assume that you've understood it, is that
2 fair?

3 A. Yes.

4 Q. If you don't understand a question, you'll let
5 me know?

6 A. Yes.

7 Q. Did you review anything in preparation for
8 today's deposition?

9 A. No.

10 Q. Did you discuss today's deposition with
11 anyone?

12 A. No.

13 Q. Can you please state your din number for the
14 record?

15 A. 10B1843.

16 Q. Have you ever gone by any nicknames?

17 A. No.

18 Q. Have you ever had a different legal name?

19 A. No.

20 Q. What is your date of birth?

21 A. 4/27/65.

22 Q. What is your place of birth?

23 A. Utica, New York.

24 Q. Have you ever been married?

25 A. Single.

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1 Q. Do you have any children?

2 A. No.

3 Q. What's the highest level of education that
4 you've obtained?

5 A. 12th.

6 Q. Have you ever been in the military?

7 A. No.

8 Q. Are you currently working?

9 A. No.

10 Q. Have you previously held a job?

11 A. No.

12 Q. Are you right or left handed?

13 A. Left handed.

14 Q. Do you have any disabilities?

15 A. Yeah, seizures. I have seizure disorders and
16 two herniated discs in my back.

17 Q. Do you have any other disabilities?

18 A. No.

19 Q. Do you have any psychiatric problems?

20 A. No.

21 Q. Do you have any medical problems?

22 A. Yes.

23 Q. What are your medical problems?

24 A. Seizures, high blood pressure, my right knee
25 messed up, two herniated discs in my back. I

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1 have GERD which is acid reflux and an enlarged
2 prostate.

3 Q. Are you currently taking any medications?

4 A. Yes.

5 Q. What medications?

6 A. I take Dilantin for the seizures. I believe
7 it's called Amlodipine for the high blood
8 pressure. I take Prilosec for my acid reflux.
9 Claritin for just seasonal allergies and
10 Tamsulosin for my enlarged prostate. Then
11 they gave me Ibuprofen 800 for my pain.

12 Q. When were you first sentenced for a crime?

13 A. What do you mean like going to Upstate, to
14 Upstate prison or just --

15 Q. What year was your first contact with the New
16 York State criminal justice system?

17 A. I believe it was 1990.

18 Q. Do you recall what crime you were convicted
19 of?

20 A. I believe it was a robbery.

21 Q. Okay.

22 A. I think it was a robbery, attempt robbery
23 crime.

24 Q. This latest bid that you were in on that
25 you've now been released from, what crime were

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1 you convicted of?

2 A. It was a sex offence, rape one.

3 Q. Have you ever been convicted of any other
4 crimes?

5 A. Bank robbery and attempted burglary and a
6 bunch of little petit larceny crimes.

7 Q. Have you ever been incarcerated in any state
8 other than New York?

9 A. No.

10 Q. Have you ever been in federal custody?

11 A. Yes.

12 Q. What crime was that in connection with?

13 A. Bank robbery charge.

14 Q. Do you recall how long you were in on that
15 charge for?

16 A. From 1994 to 2000.

17 Q. Okay. When did you arrive at Gowanda
18 Correctional Facility?

19 A. I want to say Gowanda on the bid, that bid
20 right there two previous occasions. I can't
21 recall the date that I actually arrived there
22 but I was there on two occasions. The first
23 time I was there I got kicked out of the
24 program that I was there for because I had got
25 into a fight with this guy and then after that

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1 they brung me back. But I believe it was in I
2 want to say 2012 but I don't remember the
3 exact month.

4 Q. What program was that that you were in?

5 A. It was the sex offense program.

6 Q. Okay. Have you ever filed any other lawsuits
7 in state or federal court?

8 A. I had a lawsuit going when I got hit by a car.
9 That's the only other thing that was ever
10 filed.

11 Q. Are you familiar with the DOCCS grievance
12 system?

13 A. Yes.

14 Q. Have you used it before?

15 A. Yes.

16 Q. Were you found guilty of any disciplinary
17 infractions while incarcerated?

18 A. Yes.

19 Q. Approximately how many?

20 A. The two at Gowanda. You mean on the bid
21 that's in question here?

22 Q. Let's start with that, yeah. How many
23 infractions on your latest bid?

24 A. I believe it was just the two at Gowanda.

25 Q. Do you recall what they were both for?

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1 A. The one with the -- the first time I was there
2 I got into physical altercation with another
3 inmate, got into a fight and the one that
4 we're here for today with the officers.

5 Q. Do you recall in March of 2013 where you were
6 locking?

7 A. In March of 2013 at the time I was locked in,
8 we were locked in C east 3 and then we were
9 moved to I believe it's B east 3 where this
10 altercation took place because they were
11 putting new windows in C east 3 building so
12 they moved us over to D east 3. Excuse me, it
13 was D east 3.

14 Q. Could you describe that unit for me?

15 A. It's basically really like a dormitory setting
16 and it's a few rooms. Basically majority of
17 that unit was dormitory setting with a few
18 rooms in the halls.

19 Q. Approximately how large was the dormitory
20 room?

21 A. It was pretty large because it was like two
22 sides to it. A side here and a side go this
23 way and then it had like a TV room. So it was
24 pretty fair, pretty big unit.

25 Q. Was it bunk beds or single beds in the unit?

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1 A. There was some bunk beds but they weren't
2 using the bunk bed so basically everybody
3 really had a single bed to their selves.

4 Q. Do you recall approximately how many inmates
5 were locked in on that unit?

6 A. I can't recall the number. I believe it's
7 more than 60 though.

8 Q. Okay. How long were you in that location for?

9 A. Probably maybe a week, maybe a week because I
10 think we had just moved over there. So it
11 wasn't long that that we were there.

12 Q. Do you recall an incident that occurred on
13 March 19, 2013?

14 A. Yes.

15 Q. Can you describe that incident?

16 A. We were basically new on the unit and that we
17 basically were moved over there with new
18 officers because in C east 3 we had to move
19 because they was putting new windows in and
20 the officers that were familiar with us while
21 we were in the program they didn't come along
22 with us. So we were moved over to D east 3
23 with new officers that didn't know any of us.
24 So on that particular day the CO that was
25 working the unit came to be known as CO

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1 Keicher. I had went to the office prior to
2 dinner being served because you have dinners,
3 we eat in the units because Gowanda don't have
4 no main mess hall. So one of the day rooms
5 they use it as a dining hall. So I went to CO
6 Keicher and I asked him can I have the call
7 outs because my job at the time was to hang
8 the call ups on the bulletin boards so that we
9 know call outs and all the other notices that
10 came through the mail and he told me to come
11 back later to get it.

12 So after dinner I approached the officer
13 again and asked him can I have the call outs
14 for tomorrow to put on the bulletin board. He
15 sweared at me so I asked him you know why are
16 you swearing at me and I told him when you
17 came to work today, you left your son at home.
18 So he immediately asked me for my ID. I gave
19 him my ID and I took off and back to my bunk
20 area and was listening to my radio and
21 probably maybe about a half an hour, maybe 45
22 minutes later, could of been later than that,
23 CO, came to be known as CO Bartz. He came to
24 my cube, the cube I was in had like four beds.
25 Had a bed in the corner with the bed I had

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1 near the window, had another bed on the side
2 of me. On the other side of my locker it was
3 a bed behind me and a bed on the other side
4 and he said Jackson, you're having a cube
5 search today, I was like all right. He said
6 let me see your razor because CO Keicher he
7 already have your ID. So I go in my locker
8 and get my razor. Open it up and show it to
9 him. So he took the razor and he said -- he
10 had me go stand near the locker. Like the bed
11 sits here, a bed back here, it's another bed
12 sit here, it's a bed over here and on the bed
13 on the far end right here was a locker on the
14 side of it, he told me to go stand over there
15 while they did the cube search.

16 So I'm visually watching them do the cube
17 search and they asked me to get the garbage
18 can that was in the corner because they was
19 throwing a lot of stuff out of my locker in
20 the trash. So I told him you get the garbage
21 can because it's your job, you the one doing
22 the cube search. You want to throw my stuff
23 away, I'm not going to get the can. So I
24 ended up getting the garbage can, taking it
25 over there. After they finished with the cube

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1 search everything that should of been on the
2 bed was on the floor, like my clothes and
3 basically other personal stuff that was inside
4 the locker and everything that should of been
5 on the floor was on my bed, sneakers, boots
6 and all of that. So I had asked CO Bartz, can
7 I speak to a sergeant because I wanted to show
8 the sergeant the condition that you left my
9 cube in because according to your directives,
10 I believe it's was 4019A that when you come do
11 a cube search in my cube it's supposed to be
12 almost the same way as you found it. It's not
13 going to completely be the same way. So he
14 said to me that the cube search was
15 appropriate and he stated that you're not
16 going to see a sergeant and he struck me in
17 the face with a closed fist, this is CO Bartz.
18 And CO Keicher he hit me from the other side
19 which he knocked me to the ground and once I
20 was on the ground he jumped on my back and
21 they both grabbed my hands to secure my hands
22 in handcuffs and once they secured my hands in
23 handcuffs they both got up started kicking me,
24 slamming my face in the ground, chipped my
25 tooth and kept punching me in the face and

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1 bust my lip wide open and had like ten
2 stitches to put my lip back together. They
3 kept doing this and then the sergeant he was
4 summoned there, I believe his name came to be
5 Sergeant Kaczmarek and he came, he continued
6 to let him punch on me and kick on me. Then
7 he told him it was enough and then they took
8 me to the infirmary and then to the outside
9 hospital and that's what happened that day.

10 Q. Okay. So CO Bartz punched you with a closed
11 fist, do you recall what side of your face?

12 A. He hit me right here on this side of the face
13 because he was standing on this side of me
14 right here. CO Keicher he was standing on
15 this side over there and when CO Bartz hit me
16 right here on this side of the face, the left
17 side of my face, Keicher punched me. He
18 didn't really hit me in the face, he kind of
19 like hit me in the head up here with his hand
20 which knocked me to the ground.

21 Q. And just because she's typing all this down, I
22 know it's hard but if you can just try to
23 describe left and right rather than indicating
24 because she can't pick that up in the record.
25 I know it's easier to sort of gesture.

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1 A. CO Bartz hit me in the left side of my face
2 with a closed fist and CO Keicher hit me in
3 the right side of the top of my head with a
4 closed fist.

5 Q. Okay. And after the hit to the right side of
6 your face you fell to the ground?

7 A. I went to the ground. I fell face first to
8 the ground and then that's when they jumped on
9 my back. I think it was Keicher, he jumped on
10 my back. One of them jumped on my back and I
11 believe it was Keicher and he grabbed my arm
12 and pulled it back. Pulled my right arm back
13 while CO Bartz came down and grabbed the left
14 arm and pulled it back and secured me in the
15 handcuffs. Then they continued, they both
16 continued to kick me, slammed my face in the
17 ground and just punching me.

18 Q. So once the handcuffs are on you, are they
19 still on the ground or do they stand up?

20 A. No, I'm still on the ground at the time.

21 Q. Okay. And the officers, are they on top of
22 you on the ground or they have stood up?

23 A. They both stood up and they started kicking me
24 in my side. Then they came down and grabbed
25 my head and pushed my head in the -- I don't

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1 know which one of them it was, but they
2 grabbed my head and pushed my head down and
3 kept slamming my face down to the floor and
4 then was punching me, came down and was
5 punching me in the face, they both were.

6 Q. Okay. Did they apply any other restraints
7 other than handcuffs?

8 A. No.

9 Q. And the sergeant I believe you said was
10 Kaczmarek?

11 A. I believe that's his -- Sergeant Kaczmarek.
12 That's when they pulled me up to the ground
13 when the sergeant -- when they summoned him to
14 come and then once they pulled me up from the
15 ground they continued to punch me in the face
16 while the sergeant standing there and watched.

17 Q. So the officers bring you up from the ground
18 and then the sergeant arrives on the scene?

19 A. Yes.

20 Q. Okay. And then after that they continued to
21 strike you?

22 A. They continued to strike me in my face with
23 closed fists.

24 Q. And what did the sergeant do?

25 A. He didn't do nothing. He stood by and then

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1 after a while, probably like maybe a minute or
2 so he told them that's enough. And then he
3 had another officer grab me and take me off.
4 Him and the officer escorted me to the
5 infirmary.

6 Q. Do you recall that officer's name?

7 A. No, I don't recall his name. I don't know who
8 that was.

9 Q. What happened when you got to the infirmary?

10 A. When I got to the infirmary the nurse
11 immediately started working on my lip because
12 it was blood everywhere from it. She was
13 trying to stop the bleeding from my lip and I
14 think my head, I think I had -- my head was
15 wide open too and they immediately had me
16 strip down to my boxers and they took pictures
17 of all the injuries that occurred. Then they
18 had me -- I think they had me talk to a doctor
19 on the screen to the hospital and then they
20 asked me what happened there and I told them
21 that I was assaulted by two correction
22 officers and that's the only statement that I
23 gave to them at the time and I asked them
24 could they call the state police and nobody
25 would call the state police and I requested

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1 same thing when I got to the -- I believe it
2 was Lakeshore. I think that's the name of the
3 hospital out there. I think it was Lakeshore
4 that I asked them when I got there, I said
5 nurse could you call the state police because
6 I'd like to file a complaint for me being
7 assaulted by two correction officers and
8 nobody would call the state police.

9 Q. Did Sergeant Kaczmarek ever strike you?

10 A. No, he never hit me.

11 Q. Okay.

12 A. He never hit me. He just stood by and watched
13 them. I mean he could of tried to remedy the
14 wrong by immediately telling them to stop but
15 he stood there and watched them continue to
16 strike me with closed fists.

17 Q. So what happened after you were finished being
18 treated in the infirmary?

19 A. After I'm finished being treated in the
20 infirmary they take me to the -- where they
21 shackle me up and take me to the hospital and
22 I was treated at the -- matter of fact I had
23 another incident I believe at the hospital
24 with the officer there because the officer
25 there had asked the nurse that was attending

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1 me, can she call the state troopers for me and
2 the officer he intervened and told her no,
3 don't call them because it was a
4 misunderstanding. I was like ma'am, it wasn't
5 a misunderstanding I need for you to call the
6 state troopers for me so I can report this
7 complaint and she didn't. So me and the
8 officer we got into a little verbal
9 altercation there about that and he ended up
10 writing me an incident report on that as well.

11 Q. What treatment did you receive at the
12 hospital?

13 A. They treated me for -- they put I think it was
14 ten stitches in my lip. They treated me for
15 this chipped tooth right here, my chipped
16 tooth and they treated me for the head, for
17 the head. And I think my neck or something
18 else, there was a few more other treatment, I
19 can't recall. But those was the major ones
20 because my lip was wide open, it had a piece
21 of meat hanging out of it.

22 Q. Do you have any permanent injuries as a result
23 of this incident?

24 A. Yeah, this chipped tooth right here, that's a
25 permanent injury. And plus like my lip every

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1 now and then it gets numb so basically that it
2 and I think I have a couple of scars on my
3 head from them kicking me, kicking me in the
4 head.

5 Q. What happened after you were treated at the
6 hospital?

7 A. After I was treated at the hospital they took
8 me back to Gowanda, I was seen in the
9 infirmary that night and they had me stay in
10 the infirmary that night and then the next
11 morning they took me to the special housing
12 unit and served out my time there.

13 Q. So going back to the way that the unit was set
14 up, I noticed you said that there were a few
15 other beds in the cube that you were located
16 in?

17 A. Yes.

18 Q. Did any other inmates lock in that same cube
19 with you?

20 A. Yes, it's like -- I have to draw it out for
21 you to show you how it was set up. It's like
22 -- she got to put it down. It's like a bed in
23 the corner which was my bed. Now, they had
24 the beds like -- they had the cube area set up
25 in like alphabets. I think we were J and then

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1 the J area it was four beds, actually I think
2 it was five but I don't think nobody used the
3 fifth bed. So I think I was -- I believe it
4 was J, I can't recall. It was either J4 or J2
5 I think my bed was and it was like J3, J4 and
6 J5 we all in this one little area. So, yeah,
7 I think it was like two other guys slept in
8 that area at the time.

9 Q. Were they around while the cube frisk was
10 being performed?

11 A. No, they wasn't around. No, not that I can
12 recall. I don't remember seeing them around.
13 I think one of them were around. I can't
14 recall if they were there or not.

15 Q. Were there any inmates in the area while the
16 cube frisk was being performed?

17 A. There were a few.

18 Q. Do you recall who they were?

19 A. One by the name of Nathaniel Flowers. He
20 actually seen the officer strike me and there
21 was a guy, I can't think of -- his last name
22 was Mr. Young. I don't know his first name
23 but he seen it as well. But nobody would come
24 forward, I don't know for what reason. You
25 know when you have a situation like that they

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1 don't want to come forward to try to help you
2 out.

3 Q. Were there any other witnesses to the incident
4 that you're aware of?

5 A. There probably were but I didn't visualize
6 everything around me, I was just looking at
7 the officers in front of me because I know
8 that they have a history of -- like Gowanda
9 Correctional Facility is a hands on facility
10 by the way. Officers quickly put their hands
11 on you, it's a hands on facility. I mean you
12 can just say one little thing to them and next
13 thing you know, you're being struck.

14 Q. How long were you in the special housing unit
15 for as a result of this incident?

16 A. I was in that special housing unit probably --
17 I don't know, maybe up to -- probably more
18 than -- it might of been at least 30 days,
19 probably at least because I had pending tier
20 three tickets so I couldn't go no where
21 without it. They chumped up -- I don't want
22 to say that right now but everything was
23 chumped up. But maybe probably about 30 days
24 at least.

25 Q. So a misbehavior report was filed against you

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1 as a result of this incident?

2 A. A false misbehavior report was filed against
3 me, yes.

4 Q. Do you recall what the charges were?

5 A. They had me with pat frisk, they said it was a
6 pat frisk. Never had me on the wall at all.
7 Never on the wall. They said violent conduct
8 I believe it was and I think it was
9 interfering with an employee. That's all I
10 could remember. One of them charges got
11 reversed and I believe it was interfering with
12 an employee I think. They dismissed one of
13 them charges on my appeal.

14 Q. Was that your appeal to the superintendent?

15 A. Yes, that's the appeal to the -- no, it was
16 appeal to the director of special housing unit
17 in Albany.

18 Q. So quickly jumping back to your treatment at
19 the hospital. Do you recall if they performed
20 any diagnostic tests on you?

21 A. They did a -- I think they did a CAT scan on
22 my head I believe. I don't remember. I think
23 they did.

24 Q. Do you know what the results of the test were?

25 A. I don't remember.

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 Q. After you went back to the facility you spent
2 the night in the infirmary, correct?

3 A. Yes, that's correct.

4 Q. After that did you receive any other medical
5 attention for the injuries that you received
6 as a result of this incident?

7 A. No, you know they came by the special housing
8 unit to look at it but other than that there
9 was no other treatment available for me at
10 that time. They wouldn't give me no treatment
11 there and I was trying to file a grievance
12 because I wasn't getting no treatment. But in
13 the special housing unit an officer picks your
14 mail up and half the mail wasn't even making
15 it out of the special housing unit so there
16 was no kind of way that I can get my mail out.
17 I had to send one to deputy superintendant
18 named Culley and she was director of program,
19 I had to send a complaint to her about there,
20 down there because they wouldn't feed me down
21 there and it just made matters worse at
22 Gowanda box.

23 So I had to wait until I think I got to --
24 I believe it was Fishkill, Fishkill special
25 housing unit they have what they call a 200

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1 box where you do your time in. And I think
2 when I got to Fishkill I believe they started
3 getting me treatment there, I think it was for
4 my neck or something due to this incident.
5 Somewhere they was treating me. No, wasn't
6 Fishkill, it was Upstate box, that's where
7 they treated me for the neck injury from this
8 incident right here.

9 Q. When you were in Gowanda special housing unit
10 what treatment were you requesting?

11 A. I was requesting -- I kept telling them I kept
12 having these headaches that wouldn't go away.
13 I kept having these headaches and plus my
14 hands, both of my hands was so numb, I
15 couldn't really feel them from how tight they
16 had the handcuffs on, couldn't feel them. And
17 I asked for that and I told them that my neck
18 was bothering me and they never pulled me out
19 for treatment. I didn't get the treatment
20 until I got to Upstate box.

21 Q. Did you ever receive any physical therapy?

22 A. At Upstate box I did. Nothing at Gowanda.

23 Q. Did this incident in any way affect your
24 seizure problem that you testified that you
25 have earlier?

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1 A. No, I can't recall. I can't really say that
2 it did because you know seizures is not
3 controllable, you know you can use medication
4 and you can still go into a seizure. So I
5 can't really say that this incident affected.
6 I really can't say that but it could progress
7 it though.

8 Q. After you were in Gowanda SHU, where were you
9 transferred to next?

10 A. I was transferred to Upstate Correctional
11 Facility. That's a total lockdown facility
12 where you go and do your SHU time. They call
13 them 200s.

14 Q. What does that mean?

15 A. It's like a total of the whole jail is a
16 lockdown like 23 hours in and maybe hour out.
17 But you have a roommate in there, it's like
18 where they have a shower in your cell. So you
19 really ain't coming out of the cell and in the
20 back of the cell they have like what they call
21 a rec pen where they crack the door and you
22 can go outside and the rec pen you and your
23 roommate can go outside so that's basically
24 what a 200 is.

25 Q. Where were you transferred after Upstate?

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1 A. After Upstate, after I finished my time at
2 Upstate I was transferred to Wyoming
3 Correctional Facility.

4 Q. And where did you go after Wyoming?

5 A. That's when I came home.

6 Q. Have you had any other incidents involving law
7 enforcement or the criminal justice system
8 since you've been released?

9 A. No.

10 MR. BOYD: Can you mark this as 1.

11

12 (The following was marked for identification:
13 Exhibit 1.)

14

15 BY MR. BOYD:

16 Q. Mr. Jackson, I'm showing you what's been
17 marked as Exhibit 1. Do you recognize Exhibit
18 1?

19 A. Yes, I think this is the complaint that I sent
20 to the -- I believe it was the inspector
21 general office.

22 Q. So did you write this statement?

23 A. This is not my handwriting.

24 Q. So this is a verbal statement that you gave to
25 an investigator?

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MR. JACKSON - BY MR. BOYD - 07/15/15

- 1 A. I never gave them a -- they did come and see
2 me though but I think I had sent them a letter
3 prior to them coming to visit me and I did
4 give them a statement.
- 5 Q. Have you seen this document before?
- 6 A. Yes, I have a copy of this.
- 7 Q. Do you know who the author of the document is?
- 8 A. No, I don't.
- 9 Q. Is this statement accurate? You can take a
10 minute to review it if you need to.
- 11 A. Some of it is but a lot of this is -- some of
12 it is similar.
- 13 Q. What parts, if any, are inaccurate?
- 14 A. Like I don't remember -- he said the ticket, I
15 said that I turned towards Bartz while he was
16 pat frisking. I never said that. I never was
17 on the wall but it says that's a lie. I was
18 never pat frisked, that's true before the cube
19 search. But up here where he talks about
20 where I said I was standing with my back to
21 the cabinet, I was standing on the side of a
22 locker.
- 23 Q. When it says I moved towards him because I was
24 dazed from the punch.
- 25 A. Never moved towards him. That's a lie right

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—MR. JACKSON - BY MR. BOYD - 07/15/15—

1 there. Never moved towards him. I never
2 moved towards Officer Bartz. When I was
3 punched in the face by him that's when Keicher
4 punched me on the right side of my head and I
5 fell to the floor and that's when they jumped
6 on me, jumped on my back and tried to put my
7 hands behind my back so they can secure the
8 cuffs on me.

9 Q. Did you file a grievance related to this
10 incident?

11 A. Yes.

12 MR. BOYD: Mark this as 2.

13
14 (The following was marked for identification:
15 Exhibit 2.)

16
17 BY MR. BOYD:

18 Q. Mr. Jackson, I'm showing you what's been
19 marked as Exhibit 2. Do you recognize Exhibit
20 2?

21 A. Yes, I do.

22 Q. What is Exhibit 2?

23 A. Exhibit 2 is a grievance that I filed at
24 Upstate box with this alleged assault.

25 Q. Is this the only grievance you filed regarding

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1 the alleged assault?

2 A. Yes, it is. I believe I filed -- no, I think
3 I filed one at Gowanda. Yeah, I filed one at
4 Gowanda. I filed it at Gowanda but Gowanda
5 claimed they never got it. It's the same
6 grievance.

7 Q. Okay. But this is -- substantively this is
8 the only grievance.

9 A. Yes, this is the only grievance. Yes.

10 Q. So if you could turn to the second page of the
11 grievance, the first full paragraph beginning
12 here. Just take a minute to review that
13 paragraph.

14 A. Okay.

15 Q. In that paragraph you state to justify their
16 actions and my personal injuries to the report
17 supervisor, Sergeant Kaczmarek, they claimed
18 that they had to use use of force on me for
19 not complying with the pat frisk. All of
20 which is a lie to cover up an assault with the
21 help of sergeant Kaczmarek who now becomes a
22 party in this grievance.

23 A. Right.

24 Q. Is that statement accurate?

25 A. That statement is correct because when they

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had me at the infirmary as they was walking me by, Sergeant Kaczmarek was on the phone and I hear him say we going to use him, say that we was giving him a pat frisk and he didn't comply by taking his hand off the wall. He said that on the phone, that's how I knew at that time that what I was going to be charged with. They never pat frisk you at Gowanda or -- most facilities I've been to, they never do a pat frisk before they do a cube search, there is not one facility that I've been to where an officer come over and tell you that he's doing a cube search and they want to see your ID and your razor because if you don't have your razor that's automatic trip to the box. And every facility I've been to has never, never did a pat frisk prior to a cube search, never.

Q. In this grievance did you mention the fact that Sergeant Kaczmarek had actually witnessed the assault?

A. I don't think that I put that in here. I can't recall. I have to read through it but I don't recall. I don't recall me doing it.

Q. Please take a moment to review Exhibit 2 to

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1 refresh your recollection and just let me know
2 when you're ready.

3 A. I don't have that in here.

4 Q. Do you recall why that fact wasn't included in
5 the grievance?

6 A. No. No. No, I don't. Didn't just put it.

7 Q. So in the grievance you state that Sergeant
8 Kaczmarek now becomes a party in this
9 grievance because he was part of a cover up,
10 correct?

11 A. That's a fact.

12 Q. But you didn't grieve the fact that Sergeant
13 Kaczmarek failed to stop the assault while he
14 was witnessing it?

15 A. I mean they covered up the whole assault. I
16 mean he stood -- what I mean by that is you
17 know he stood there and watched as well. So
18 he just helping them cover up what they just
19 did to me by lying, by standing there letting
20 them do it.

21 Q. Okay. But you didn't say in your grievance
22 that he stood there and watched them do it,
23 right?

24 A. I mean that's part of what I mean in the cover
25 up. But no, I didn't put it in here per se,

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1 say Sergeant Kaczmarek stood there and watched
2 him. I just say he stood, he covering up the
3 assault with them.

4 Q. Earlier you testified, I believe it was CO
5 Keicher had jumped on your back?

6 A. Yes.

7 Q. Did you mention that fact in your grievance?

8 A. No, that's not in here.

9 Q. Okay. And in the grievance you state CO Bartz
10 threw me against a locker, is that accurate?

11 A. I state that in there?

12 Q. If you look it says --

13 A. Let me see, my personal clothing taken out of
14 my locker and tossed to the floor. CO Bartz
15 and Keicher punched me on the side of my face
16 and then he grabbed me against the locker by
17 continuing to strike me in the face, that is
18 accurate.

19 Q. So CO Bartz did throw you against a locker?

20 A. After he punched me. He punched me and he
21 didn't actually throw me against the locker,
22 it's basically like, you know like the punch
23 was like off guard. It's something I didn't
24 expect and when he hit me, I was already
25 standing next to the locker any way. He hit

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1 me, kind of like went back up against the
2 locker and that's when Keicher hit me from the
3 other side because Keicher was actually
4 standing on the other side. Bartz was on the
5 left, Keicher was on the right.

6 Q. So did you fall into the locker or were you
7 pushed?

8 A. No, it's like -- I don't know if you've ever
9 been punched off guard. It's like you're not
10 expecting it and it's like woah. I ain't
11 going to say really threw me, it's like --

12 Q. So you staggered backwards?

13 A. Staggered backwards a little, yeah.

14 Q. Did you hit your head on the locker?

15 A. No, not at all. Locker is not even high
16 enough for that, it's just like a staggered
17 back thing and threw me off guard.

18 Q. Did any part of your body hit the locker?

19 A. Just my back.

20 Q. So you bumped against the locker?

21 A. Yeah, just my back hit against it.

22 Q. And what happened after you hit into the
23 locker?

24 A. That's when Keicher hit me from the right side
25 on the top of my head right here and that's

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1 when I fell to the floor.

2 Q. And did you fall forward or backwards?

3 A. I fell forward.

4 Q. Face first?

5 A. Yeah, my face to the floor.

6 Q. If you know, did the fall to the floor cause
7 your tooth to chip?

8 A. No, they did that.

9 Q. That was a punch?

10 A. Yeah, they did that when they kept hitting me
11 in my face.

12 Q. Did you hit anything while you were falling to
13 the floor?

14 A. I can't really recall. I don't know.

15 MR. BOYD: Can you mark this as 3.

16

17 (The following was marked for identification:
18 Exhibit 3.)

19

20 BY MR. BOYD:

21 Q. Mr. Jackson, I'm showing you what's been
22 marked as Exhibit 3. Do you recognize Exhibit
23 3?

24 A. Yes.

25 Q. What is Exhibit 3?

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1 A. Exhibit 3 is the transcript from my
2 superintendent hearing.

3 Q. And that was the hearing for the misbehavior
4 report related to this incident?

5 A. Yes.

6 Q. Could you turn to page 89 of 96, you'll see
7 they're marked there at the top. And if you
8 could, review your testimony starting from the
9 bottom of that page on to the first half of
10 page 90.

11 A. Okay.

12 Q. So you testified and this is regarding CO
13 Bartz I take it. Then he grabbed me, he
14 grabbed me and threw me up against the locker,
15 hit me in my mouth and punched me in the back
16 of my head back here, right here, all of this
17 right here. Was that testimony accurate?

18 A. You want me to go on to the next page.

19 Q. Yeah, please review to the second half of the
20 next page. Please take a moment to review
21 that and let me know when you're ready.

22 A. That's accurate except I'm just going to say
23 that he didn't really throw me up against the
24 locker. Like I told you earlier, I fell back
25 against the locker from his punch.

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—MR. JACKSON - BY MR. BOYD - 07/15/15—

1 Q. Okay. But here you say he hit me then he
2 grabbed me and threw me against the locker.
3 Is it accurate to say that he grabbed you and
4 threw you against the locker?

5 A. No, he didn't throw me against that locker.
6 When he punched me, I fell back towards that
7 locker.

8 Q. So the statement in the tier hearing that he
9 grabbed you and threw you against the locker
10 is not entirely accurate?

11 A. That's not correct right there because he
12 didn't grab me. He actually punched me and I
13 fell against that locker.

14 Q. And then in the next paragraph you state, at
15 that time he grabbed me and threw me up
16 against the locker and punched me. And again,
17 then that would not be accurate, you actually
18 fell into the locker, correct?

19 A. Yeah, that's correct.

20 Q. You then state the other officer came up on
21 the other side of me and grabbed me. He
22 grabbed me and snatched my hand and threw my
23 hand behind my back and that's when Officer
24 Bartz put the handcuffs on me. Is that
25 testimony accurate?

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1 A. No. The handcuffs didn't go on me until I got
2 on the floor. After Keicher punched me and I
3 fell to the floor he did jump on me and grab
4 my arm though but them handcuffs didn't get on
5 me until I got on the floor.

6 Q. Did you mention that you went to the floor in
7 your tier three hearing testimony?

8 A. I don't recall that.

9 Q. Well, take a moment to review your testimony
10 here.

11 A. I don't think that I said that I was -- that I
12 was ever on the floor.

13 Q. Why didn't you testify to that fact during
14 your tier three hearing?

15 A. I can't recall why I didn't.

16 Q. Later in that paragraph you testified he
17 rammed my head up against the wall again.

18 A. Yeah, that's when sergeant came and they got
19 me up off that floor and he rammed my head up
20 against that wall. They kept punching me and
21 hitting my face on the wall too as well.

22 Q. So what do you mean when you said he rammed my
23 head up against the wall again?

24 A. Took the back of my head and -- took the back
25 of my head and rammed my face first into the

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 wall.

2 Q. And you stated I don't have no injury to the
3 top of my head at all. Why did you say that?

4 A. I don't remember that. I do have an injury to
5 my head. It's in that report.

6 Q. So you did in fact sustain injuries to the top
7 of your head?

8 A. I do have injury in my head. It's in that
9 medical report.

10 Q. Do you recall why you testified that you
11 didn't have any injuries to the top of your
12 head in the tier three hearing?

13 A. I don't remember. Because I know that all
14 this tier three right here was going to be
15 cover up. I know they was going to find me
16 guilty of it so I was just trying to show that
17 I was actually assaulted by officers as
18 opposed to officers say they got me on the
19 wall pat frisking me and I'm not complying,
20 that's a lie.

21 At that time I've been in the state
22 correctional facility since '06. I got to
23 Gowanda in 2013, I never had a problem with an
24 officer putting me on that wall ever. Never
25 took my hand off the wall as they claim in

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1 this report right here. I just wanted to get
2 on record that I was assaulted by police
3 officer as opposed to being a cover up saying
4 that you pat frisk me and I took my hand off
5 the wall to justify why you can use force on
6 me, that's not correct. But I do have an
7 injury to my head and it's in the medical
8 report and I don't know why I didn't say it
9 here.

10 Q. So you felt that the tier three hearing was
11 not likely --

12 A. It was a sham because it was a sham. They
13 started with the pat frisk thing with me, then
14 I get the ticket with the officer at the
15 hospital. Then when my property come down to
16 Gowanda box, they inadvertently find razor
17 blades in my bible and how did this happen and
18 you just did a cube search on my cube. So it
19 all was a whole big cover up. They was trying
20 to get me on one big thing after the next
21 because they couldn't get me on this right
22 here so they was trying, trying, trying. And
23 at that time I was almost finished with this
24 program at Gowanda. I was at Gowanda for
25 almost -- close to almost a year, I never had

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1 one incident report. I never had a problem
2 with any officer at Gowanda until they moved
3 us over to D east three. Never had a problem,
4 not one incident report since I went back to
5 Gowanda. I was almost finished with the
6 program and due to go home in September of
7 this year, had to stay for additional year
8 because of this incident here.

9 Q. Okay. So the reason that your tier three
10 hearing testimony differs in certain respects
11 from your testimony here is because you felt
12 that the process there was a quote, sham?

13 A. It was a sham, it's a whole cover up thing. I
14 knew at the end that the deputy of security,
15 he did the tier three hearing, wasn't my
16 chance of saying okay Mr. Jackson we find you
17 not guilty and my complaint is against the
18 security staff. Wasn't even a shot there.
19 Gave me 90 days in the box for this, something
20 I didn't even do.

21 Q. Did you feel that it was important to testify
22 accurately during the tier three hearing?

23 A. You know at that point I really didn't care
24 because I knew that I was going to the box,
25 they was going to put me in the box any way.

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1 All I wanted to get on paper was to show that
2 I was assaulted by these officers. That was
3 my total thing, to show that these officers
4 assaulted me and that they actually did a cube
5 search instead of pat search on me. That was
6 my biggest thing was to show that. I always
7 comply with officers when they put me on that
8 wall because I know the consequences behind
9 that. I never took my hand off a wall, not
10 one time.

11 Q. During your tier three hearing testimony did
12 you ever testify about the involvement of
13 Sergeant Kaczmarek?

14 A. No, he never really came up. I don't even
15 think I brung him up in this tier three
16 hearing. Basically at the tier three hearing
17 they really don't allow you -- they ask you
18 for witness. Like I called him as a witness
19 because Officer Bartz really was the
20 aggressor, Keicher was just following behind
21 him. But Officer Bartz was really the
22 aggressor, that's why I wanted to call him as
23 the witness. A lot of things they wouldn't
24 allow me to say in a tier three hearing, they
25 wouldn't put it on the record. They're

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1 telling me I can't say it so at that point I
2 just really gave up on it. I just wanted to
3 get on the record that I was actually
4 assaulted by these officers.

5 Q. So you called CO Bartz as a witness?

6 A. Yes.

7 Q. Did you call CO Keicher as a witness?

8 A. No, I didn't call Keicher as a witness.

9 Q. Did you call Sergeant Kaczmarek as a witness?

10 A. No because at the time I didn't know neither
11 one of them names.

12 Q. Okay.

13 A. But I knew his name because he's the one that
14 wrote the report and he the one that wrote the
15 incident report, that's how I know his name.
16 I think Keicher's name might be on there too
17 but I called him because he was the aggressor,
18 He started the whole thing.

19 Q. But you never mentioned in your tier three
20 hearing testimony that Sergeant Kaczmarek
21 witnessed the assault and failed to prevent
22 it?

23 A. No, that's not the time for that. They won't
24 let you like -- like when you in these
25 hearings here man, it's like certain things

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—MR. JACKSON - BY MR. BOYD - 07/15/15—

1 that they let you say and certain things
2 they're not going to let you say. So you know
3 my whole -- this whole thing was a defeat for
4 me because they wouldn't allow me to ask them
5 certain questions that I wanted to ask. So I
6 pose a question but the deputy of security he
7 -- I can't ask the question. I can ask the
8 question but I have to tell the hearing
9 officer, the hearing officer ask the question
10 so he put it in the form that he want to put
11 it in.

12 Q. But you never tried to ask any questions about
13 Sergeant Kaczmarek's involvement, right?

14 A. No.

15 Q. Okay.

16 A. Sergeant Kaczmarek he's the supervisor and he
17 determines what happens.

18 Q. What damages are you seeking in this action?

19 A. I think I put punitive and I think like
20 suffering, pain and suffering.

21 Q. What amount of damages are you seeking?

22 A. I think it was like 500,000 I think I put in
23 there, monetary amount.

24 MR. BOYD: Can you mark that as 4.

25

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 (The following was marked for identification:
2 Exhibit 4.)
3
4

BY MR. BOYD:

Q. Mr. Jackson, I'm showing you what's been
marked as Exhibit 4. Do you recognize Exhibit
4?

A. It's my motion that I filed with the court for
disclosure.

Q. That's your rule 26 disclosure statement?

A. Yes.

Q. If you could turn to the last page of Exhibit
4. Paragraph 4 your computation of damages,
you state plaintiff seeks compensatory and
punitive damages for each claim. Why didn't
you list a monetary amount here?

A. Because it's already in my original claim. I
didn't know that I had to put it here.

Q. How did you arrive at the figures in your
original claim?

A. Just amount came to me. It's just amount that
came to my head.

Q. So you just sort of thought it up out of the
air?

A. Yes.

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 Q. If you turn back to paragraph 1 on page 2.
2 Here you list yourself and inmate Young as
3 potential witnesses to this incident?

4 A. Yes.

5 Q. Are there any other potential witnesses that
6 you're aware of?

7 A. No. I'm still trying to get in contact with
8 Mr. Young because I don't know his whereabouts
9 now. He's still in DOCCS Correctional though
10 but I haven't gotten a statement from him yet.

11 Q. Under paragraph 2 the following documents are
12 identified and attached. Do you have any
13 other documents that are relevant to this
14 action other than the ones listed here?

15 A. No.

16 Q. During the incident on March 19, 2013 did you
17 ever fail to comply with an officer's order?

18 A. Never.

19 Q. Did you ever take any action that could be
20 interpreted as aggressive?

21 A. No, told you I've been at Gowanda for almost a
22 year and I have not one incident report prior
23 to this incident right here. No.

24 Q. Prior to your incarceration at Gowanda have
25 you ever had any misbehavior reports filed

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 against you for violence involving officers?

2 A. No.

3 Q. Have you had any misbehavior reports filed
4 against you for violence involving other
5 inmates?

6 A. Prior to me coming to Gowanda?

7 Q. Yeah.

8 A. I had one before Gowanda which is the first
9 time I was at Gowanda. I had a fight with an
10 inmate.

11 Q. But you've never had a violent incident
12 involving officers?

13 A. No.

14 Q. Never your entire time in DOCCS custody?

15 A. No, first time.

16 Q. Why do you feel that CO Bartz is liable to
17 you?

18 A. He's the aggressor. He started this whole
19 incident.

20 Q. And why do you feel that CO Keicher is liable
21 to you?

22 A. Because Keicher, he just followed Bartz.

23 Q. And why do you feel that Sergeant Kaczmarek is
24 liable to you?

25 A. Because Sergeant Kaczmarek he didn't remedy

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1 the wrong, he just let them continue to do it,
2 to assault me until he said that's enough.

3 Q. Okay.

4 A. He could of stopped the incident. I mean I
5 was already beat up by then. He just
6 continued to let it go on when he came, that's
7 not right.

8 Q. Did you ever state either in your tier three
9 testimony or in your grievance that Sergeant
10 Kaczmarek was present during the assault?

11 A. No because he wasn't present during the actual
12 assault when the actual assault happened in
13 the cell. Any time an incident happened where
14 you get involved in a fight or they be with an
15 inmate, another inmate or any incident
16 happened with an officer, a sergeant has to be
17 called to the scene because the sergeant had
18 authority to say okay we're going to put you
19 in the box. Okay, pack your stuff, we're
20 going to move you to another. So sergeant has
21 to be called to the scene and the reason why I
22 didn't bring it up is because they are aware
23 that when these incidents take place a
24 sergeant has to be summoned to the area. He's
25 the first one that come with the officers.

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1 Q. So Sergeant Kaczmarek arrived after the
2 assault had taken place?

3 A. After I was already assaulted. They got me up
4 on my feet, got me on the wall, he come, smash
5 my face in the wall, keep punching me,
6 sergeant said that's enough. That's when him
7 and another officer escorted me to the
8 infirmary to be treated.

9 Q. So Sergeant Kaczmarek was not present for the
10 principal assault?

11 A. No, he was not present when the actual assault
12 took place, no, no.

13 Q. What actions took place while Sergeant
14 Kaczmarek was present?

15 A. CO Bartz and Keicher punching and kicking me
16 and slamming my face on the floor, that type
17 of stuff, that took place. Sergeant Kaczmarek
18 came and got me on my feet and they got me on
19 the wall, that's when they came over and put
20 my face in the wall and punched me on my side
21 a few times and hit me in the face and that's
22 when he said that's enough.

23 Q. Okay.

24 A. And he took me because blood was everywhere.
25 I mean blood was just drooling from my mouth,

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1 my lip.

2 Q. How long was Sergeant Kaczmarek present before
3 he said that's enough?

4 A. Maybe about 30 seconds to maybe a minute,
5 wasn't long.

6 Q. So approximately 30 seconds?

7 A. Anywhere between 30 seconds to a minute.

8 Q. And were you compliant at this time?

9 A. All the time I was compliant. I was compliant
10 through their whole ordeal, through
11 everything. I complied with them from the
12 time he came and did the cube search until the
13 end.

14 MR. BOYD: Why don't we take a quick
15 break. I think I'm just about done but if we
16 can just take -- if you need to use the
17 restroom or anything or do you want a drink of
18 water.

19 THE WITNESS: I'm good. Thank you.

20 MR. BOYD: Give us you know five minutes,
21 maybe less and we'll finish up.

22

23 (Recess taken)

24

25 BY MR. BOYD:

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 Q. Mr. Jackson, just quickly before we conclude.
2 Did you know any of the officers involved in
3 the March 19, 2013 incident prior to that
4 date?

5 A. No.

6 Q. Had you seen any of them before?

7 A. No, like I said we had just moved over there
8 so I wasn't familiar with those officers on
9 the unit. We were over there because they was
10 putting windows in our unit and they moved us
11 over there until it was completed. So I was
12 just familiar with the officers that worked my
13 unit in C east 3, not D east 3.

14 Q. Did you ever have any interaction with those
15 officers after the incident other than during
16 the tier three hearing?

17 A. No because after that I was kept in special
18 housing unit where they continued to violate
19 me and transferred to Upstate box and then
20 from Upstate box I was transferred to Wende
21 Correctional Facility. I mean excuse me,
22 Wyoming Correctional Facility and then I was
23 released.

24 Q. Have you ever given any testimony or statement
25 about this action, either verbal or written

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1 form other than the documents that we've gone
2 over in this deposition?

3 A. No. Except for the claim itself, that's it.

4 Q. Were you ever pat frisked either before or
5 after the March 19, 2013 incident?

6 A. Only when I was taken to the special housing
7 unit.

8 Q. But CO Bartz and Keicher never conducted a pat
9 frisk of you?

10 A. Not at all, it never happened.

11 Q. Do you know why they would of stated that they
12 did conduct a pat frisk?

13 A. To cover up the assault that they did to me,
14 it's an easy way out. When you in DOCCS, they
15 know the easy way out to say they had you on
16 the wall and they take their hand off the
17 wall. So that's an easy cover up right there.
18 That's why they stated that, but that never
19 happened. They never had me on that wall.
20 Because they didn't have me on that wall, I
21 always comply. I never took my hand off that
22 wall, never.

23 Q. Are you currently receiving any medical
24 treatment as a result of the injuries you
25 sustained in this incident?

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MR. JACKSON - BY MR. BOYD - 07/15/15

1 A. I still receive like basically for my neck but
2 you know they just give me pain medication for
3 it.

4 Q. Have you been diagnosed with any specific neck
5 injury?

6 A. They diagnosed me with something when I was
7 inside prison, I forgot what it was but they
8 sent me to therapy for it. The therapy didn't
9 really work. I forgot what they diagnosed me
10 with but out here they didn't diagnose me with
11 nothing, just gave me some Motrin 800s and
12 told me to take it.

13 Q. When was the last time you seen a doctor for
14 your injuries?

15 A. I just seen that doctor probably maybe a month
16 ago. I think I just seen this doctor, about a
17 month ago.

18 Q. That was about pain in your neck?

19 A. Yeah, like for pain in my neck and my knee.
20 So they gave me all this 800 Motrin and I was
21 supposed to see her back in September. She
22 said if it's not better she's going to
23 recommend me to a specialist. And I had this
24 tooth fixed three times and it just won't
25 stay.

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1 MR. BOYD: That's all the questions I have
2 for you today. Thank you for your time.

3 THE WITNESS: Okay.

4

5 (Deposition concluded at 11:13 AM)

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1 STATE OF NEW YORK)

2) ss.

3 COUNTY OF ERIE)

4

5

I, Heather Marcolini, Notary Public, in and
for the County of Erie, State of New York, do
hereby certify:

6

7

That the witness whose testimony appears
hereinbefore was, before the commencement of
their testimony, duly sworn to testify the
truth, the whole truth and nothing but the
truth; that said testimony was taken pursuant
to notice at the time and place as herein set
forth; that said testimony was taken down by
me and thereafter transcribed into
typewriting, and I hereby certify the
foregoing testimony is a full, true and
correct transcription of my shorthand notes so
taken.

8

9

I further certify that I am neither counsel
for nor related to any party to said action,
nor in anyway interested in the outcome
thereof.

10

11

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed my seal this
20th day of July, 2015.

12

13

Heather Marcolini

14

15

Heather Marcolini,
Notary Public,
State of New York, County of Erie
My commission expires 7/21/2019

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